

GUST ROSENFELD P.L.C.
One East Washington Street, Suite 1600
Phoenix, Arizona 85004-2553
Carol M. Romano – 015988
Kelli K. Williams – 022907
602-257-7422 Telephone
602-254-4878 Facsimile
cromano@gustlaw.com
kwilliams@gustlaw.com

Attorneys for Defendants

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

JONATHAN MARSHALL, individually,)
as the surviving son of MELISSA)
MARSHALL, deceased, and on behalf of)
NICHOLAS MARSHALL, surviving son,)
and RUTH JUNTILLA, surviving mother)
of MELISSA MARSHALL, deceased, and)
all other statutory beneficiaries of)
MELISSA MARSHALL, deceased,)

Plaintiff,

vs.

LA MESA REHABILITATION AND)
CARE CENTER; FIVE STAR QUALITY)
CARE,)

Defendants.)

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1441(b) and 1332(a)(1), Defendants Five Star Quality Care AZ-LLC dba La Mesa Rehabilitation and Care Center (erroneously sued herein as La Mesa Rehabilitation and Care Center); and FSQ, Inc. (erroneously sued herein as Five Star Quality Care), (“Defendants”), by and through undersigned counsel, hereby remove the above-captioned action from the Superior Court of the State of Arizona in and for the County of Yuma, in which it is currently pending, to the United States

1 District Court for the District of Arizona. Removal is proper for the following reasons:

2 1. The action was filed in the Superior Court of the State of Arizona in and
3 for the County of Yuma on August 24, 2015.

4 **Diversity**

5 2. Defendants are informed and believe that Plaintiff Jonathan Marshall is a
6 resident of Arizona.

7 3. Defendants are informed and believe that Plaintiff Nicholas Marshall is a
8 resident of Arizona.

9 4. Defendants are informed and believe that Plaintiff Ruth Juntilla is a
10 resident of California.

11 5. Defendant Five Star Quality Care AZ-LLC dba La Mesa Rehabilitation
12 and Care Center (erroneously sued herein as La Mesa Rehabilitation and Care Center)
13 is a foreign limited liability corporation and each of its members are citizens of
14 Massachusetts.

15 6. Defendant FSQ, Inc. (formerly known as Five Star Quality Care, Inc.) is
16 a Delaware corporation with its principal place of business in Massachusetts.

17 7. Originally, the state court action was filed in Yuma County Superior
18 Court (No. S1400-CV201500724).

19 **Amount in Controversy**

20 8. This Court has original jurisdiction over this action pursuant to 28 U.S.C.
21 § 1332(a)(1), and is properly removed to this Court pursuant to 28 U.S.C. § 1441(b)
22 because it is a civil action between citizens of different states and the matter in
23 controversy exceeds the sum of \$75,000.00, exclusive of interests and costs.

24 **Timeliness of Notice**

25 9. The Complaint in this action was filed on August 24, 2015, attached as
26 Exhibit "1" to this Notice.

10. The Defendants were served with the Summons and Complaint on October 14, 2015, attached as Exhibit “2.” Thus, this notice is timely filed 28 U.S.C. §1441(b)(1) within thirty days after the service of summons.

11. Written notification of the filing of this notice will be served on Plaintiffs and filed with the Clerk of the Yuma County, Arizona, Superior Court as required by 28 U.S.C. § 1446(d).

12. Undersigned counsel verifies that true and correct copies of all pleadings and other documents that were previously filed in the state court proceeding are attached to this Notice of Removal as Exhibits “1” and “2.”

WHEREFORE, Defendants respectfully request that the action now pending against it in the Superior Court of the State of Arizona in and for the County of Yuma be removed to this Court and that further proceedings in this action be conducted in this court as provided by law.

RESPECTFULLY SUBMITTED this 16th day of October, 2015.

GUST ROSENFELD P.L.C.

By s/ Kelli K. Williams
Carol M. Romano
Kelli K. Williams
Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of October, 2015, I electronically transmitted the foregoing document to the Clerk's Office using the CM/ECF System for filing and transmitted a Notice of Electronic Filing to the following CM/ECF participants:

Carter Morey, Esq.
Law Office of Carter Morey,
A Professional Corporation
110 South Church Avenue, Suite 2170
Tucson, Arizona 85701
crm@cartermorey.com
Attorney for Plaintiffs

s/ Naomi Ewing